Custody Case SCS 2of2

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December 30, 1977

Douglas J. Bennet, Jr.
Assistant Secretary for
Congressional Relations
Department of State
Washington, D.C. 20520

RE: Reply to Douglas Bennet's Letter of December 9, 1977 to the Honorable Robert E. Duncan Concerning the Custody of John Victor Stoen

Dear Mr. Bennet:

I write to protest several statements made in the above-referenced letter. The letter states that during my recent visit to the Department that I talked at length about my belief "that the pending judicial proceedings were going to be unfair in some manner, unduly prejudicing the judge", and that I "was unable to be specific". The letter also states that "we have attempted to assure Mr. Haas and Ms. Ryan that in our experience Guyana is a country with a strong rule of law and that the judicial system there heretofore has not been unduly influenced by outside political interference."

Your letter suggests that the Guyanese desk has not provided you with full information concerning the facts of the case and the role the State Department has played to date. The Department's files should reflect that Mr. Haas went to Guyana on August 30, 1977 to secure, pursuant to a California court order, the return of five-year old John Victor Stoen, a San Francisco resident, who was and is being held by the People's Temple.

Mr. Haas retained a respected Guyanese attorney, Clarence Hughes, to apply to the Supreme Court for an order returning the boy to his mother. On September 6, 1977, a Writ of Habeas Corpus was issued and Jim Jones, head of the People's Temple, was ordered

to appear before the court on September 8, 1977. On September 8th, the court found that there was good cause to believe that Jones was intentionally evading Supreme Court Marshal William Blackman's attempts to personally serve him. Accordingly, alternate means of service of the Writ of Habeas Corpus was prescribed and Jones was ordered to appear in court with the child on September 10th. Jones failed to appear in court on September 10th. The court then made the child a ward of the court and ordered Jones arrest.

Events then ceased to follow the normal legal course. Despite numerous requests of counsel, the clerk of the court failed to sign and issue the warrant. It was Mr. Haas' understanding as well as the stated position of the United States Embassy in Guyana that a high ranking official in the Guyana government had illegally instructed the clerk not to issue the warrant. The Embassy sent a diplomatic letter protesting this classic denial of justice to the Ministry of Foreign Affairs. Mr. Haas left Guyana on September 26th. The warrant was unsigned at that time and remains unsigned.

Despite the diplomatic letter of protest, neither the court nor the government took steps to countermand the wrong which had occurred. Subsequently, Joyce Touchette, a member of the People's Temple, asked leave to intervene in the proceeding. Since that time, papers have been filed by both sides and a short hearing held on a technical point. The major issue, the return of John Victor Stoen, remains unresolved.

p/c hearing see GF 2527

Based upon the foregoing, Mrs. Stoen and Mr. Stoen, who has joined Mrs. Stoen in her struggle to regain custody of the boy, have reasonable grounds to fear that the denial of justice which has already occurred will not cure itself. I concur in Mr. & Mrs. Stoen's belief that they are well within their rights to request that the Department of State extend diplomatic protection to safeguard the best interests of their minor son.

As is noted in Whitman's Digest of International Law at page 698: "Intervention, on the one hand, and diplomatic protection or interposition on the other, are to be distinguished ... The right of diplomatic protection under international law has not been renounced or outlawed under recognized principles of international law." In order to conform to the requirements of §§179(2)(e) and §§180 of the Restatement of Foreign Relations Law, Rstmt 2, 1965, A.L.I. , "a trial or other proceeding to determine the rights or liabilities of an alien must be fair."

Further, it is clearly established that a denial of justice can occur prior to final decision on a case by the highest court." "Denial of justice exists where there is a denial, unwarranted delay or obstruction of access to the courts ..." Whitman, supra, page 698.

I am sure that you can understand Mr. & Mrs. Stoen's distress when State Department representatives to whom their attorneys' inquiries are directed have no knowledge of what the State Department's previous position has been. In light of what has transpired to date, the case cannot be seen as a routine international child custody case. A referral to an international social service agency such as was made by Ms. Elizabeth Powers of Consular Services is no doubt helpful to parties in the ordinary case. However, it is difficult to understand how an international social service agency can persuade an interested high ranking Guyanese official to cease unwarranted interference in the courts.

The most basic of human rights are at stake. On behalf of Mr. & Mrs. Stoen, I urgently request that you reconsider the statements and positions taken in your letter of December 9th. I look forward to your reply.

Very truly yours,

Margaret Ryan

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MR/kh

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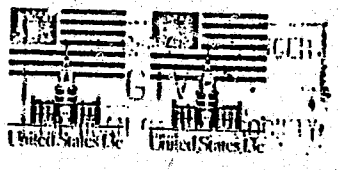

GW

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